

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT, DIVISION FOUR

Civ. No. B 069450  
(Super. Ct. No. BC 052395)

CLERK'S OFFICE  
COURT OF APPEAL - SECOND DIST.  
**RECEIVED**

MAR 14 1994

JOSEPH A. LANE

Clerk

CHURCH OF SCIENTOLOGY INTERNATIONAL,

Plaintiff-Respondent

-VS-

GERALD ARMSTRONG,

Defendant-Appellant.

**RECEIVED**

MAR 17 1994

**HUB LAW OFFICES**

On Appeal From Superior Court Of The State Of California  
County of Los Angeles  
The Honorable Ronald M. Sohigian

APPELLANT'S MOTION TO AUGMENT THE RECORD OR,  
IN THE ALTERNATIVE, REQUEST FOR JUDICIAL NOTICE

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Attorneys for Appellant  
GERALD ARMSTRONG

**COPY**



Pursuant to Rule 12 (a), California Rules of Court, appellant Gerald Armstrong, hereby requests augmentation of the record on appeal to include pleadings that were not included in Appellant's Appendix In Lieu of Clerk's Transcript.

In the alternative, Armstrong request pursuant to Evidence Code section 459 that this Court take judicial notice of said papers.

Copies of the documents to be added to the record are attached to this motion. The motion is based on the attached Memorandum of Points and Authorities and Declaration of Ford Greene.

DATED: March 14, 1994

HUB LAW OFFICES

By: 

FORD GREENE

Attorney for Appellant  
GERALD ARMSTRONG

## MEMORANDUM OF POINTS AND AUTHORITIES

Rule 12 (a) of the California Rules of Court, provides, in pertinent part, as follows:

On suggestion of any party or on the judge's own motion, a judge of the reviewing court, on such terms as are deemed proper, may order that any part of the original superior court file, including any paper or record on file or lodged with the superior court, be deemed filed, be transmitted to it, . . . and when so transmitted shall be deemed a part of the record on appeal. The clerk of the reviewing court shall mail each party a copy of the augmentation order. [¶] A party requesting augmentation shall file with the request and serve copies of any papers to be added to the record, if they are available to the party.

Appellant filed his opening brief and appendix in lieu of clerk's transcript on January 20, 1993. He filed his reply brief on May 12, 1993. After the filing of Appellant's Opening Brief, a hearing on an order to show cause re contempt predicated on Armstrong's alleged violations of the injunction at issue was commenced on March 5, 1993 before the Honorable Diane Wayne and stayed pending this Court's opinion. After the filing of Appellant's Reply Brief herein further contempt proceedings were initiated before Judge Wayne who further stayed the same on September 14, 1993 pending a decision from this Court on the validity and enforceability of the injunction.

The purpose of the instant motion is to bring the manner in which Scientology has sought to have Armstrong held in contempt before this Court. The reason therefor is that the efforts at enforcement are directly related to the intrinsic ambiguity of the injunction and an exploitation thereof for the purpose of



DECLARATION OF FORD GREENE

I, FORD GREENE, declare:

1. I am an attorney licensed to practice law in the State of California and am one of the attorneys for Gerald Armstrong, appellant herein.

2. After Gerald Armstrong submitted his appellant's opening brief herein on January 20, 1993, contempt proceedings were held below on March 5, 1993 before the Honorable Diane Wayne concerning Scientology's allegations that Armstrong had violated the injunction which is at issue before this Court. Because Judge Wayne had "some serious questions about the validity of the order" she concluded it would be an "inordinate waste of our time" to proceed. (Reporter's Transcript of Proceedings, March 5, 1993, a true and correct copy of which is attached hereto as Exhibit A at 11:20-12:12) <sup>1</sup>/ Said contempt proceedings were stayed pending this Court's decision in the instant appeal.

3. After Armstrong filed his Reply Brief herein on May 12, 1993, Scientology initiated a second contempt proceeding below wherein it alleged that Armstrong had committed on additional violations of the injunction at issue. At the hearing below held below on September 14, 1993, the trial court effectively stayed further proceedings pending this Court's decision on the instant appeal.

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<sup>1</sup> The documents that are the subject of this motion/request have been sequentially Bates-Stamped. Reference is made to such sequential numbring.



Papers To Be Augmented/Judicially Noticed

4. By this alternative motion/request for judicial notice, appellant Gerald Armstrong seeks to augment the record with important papers in this case. As I am the attorney of record below, I have personal knowledge that said papers have been filed as part of the litigation in the trial court in this case. The papers to be added to the record are as follows:

Exhibit A: Reporter's Transcript of Proceedings, March 5, 1993 before the Honorable Diane Wayne on Scientology's First Order to Show Cause Re Contempt;

Exhibit B: Order To Show Cause Re Contempt filed December 31, 1992;

Exhibit C: Ex Parte Application For Order To Show Cause Why Gerald Armstrong Should Not Be Held In Contempt; Memorandum of Points and Authorities; Declaration of Laurie Bartilson filed December 31, 1992 [without supporting exhibits];

Exhibit D: Order To Show Cause Re Contempt filed July 26, 1993;

Exhibit E: Ex Parte Application For Order To Show Cause Why Gerald Armstrong Should Not Be Held In Contempt; Memorandum of Points and Authorities filed July 26, 1993;

Exhibit F: Declaration of Laurie Bartilson filed in Support of Second Application for Order Why Gerald Armstrong Should Be Held In Contempt filed July 26, 1993 [without supporting exhibits].



### Relevance Of Papers To Be Augmented/Judicially Noticed

5. The papers filed in support of the two aforementioned contempt proceedings are pertinent to the proceedings herein for the following reasons:

a. The injunction at issue prohibits Armstrong from voluntarily testifying on behalf of person pursuing or intending to pursue a claim against Scientology. Thus, the injunction sets up two classes of anti-Scientology litigants: those who are prosecuting claims against Scientology and those against whom Scientology is prosecuting a claim. The injunction prohibits Armstrong from voluntarily testifying on behalf of the former, but not on behalf of the latter. Nonetheless, on July 26, 1993 Scientology initiated contempt proceedings based upon the injunction because it alleged that Armstrong voluntarily provided a declaration on behalf of the defendant in Church of Scientology v. Wollersheim, Los Angeles County Superior Court, Case No. BC 074 815. (Exhibit E, above (Ex Parte Application For Order To Show Cause Why Gerald Armstrong Should Not Be Held In Contempt Of Court filed July 26, 1993) at 54:8-13)

This is relevant to appellant's argument that because the injunction is unconstitutionally vague and overbroad, it is susceptible of discriminatory enforcement in violation of Armstrong's rights to Due Process and the First Amendment as set forth in Grayned v. City of Rockford (1972) 408 U.S. 104, 108-109 discussed in Appellant's Opening Brief at pp. 29-31.



b. The matters to be augmented are further relevant to the issue that the injunction is ambiguous and unconstitutionally vague in another regard. Specifically, during the hearing on its preliminary injunction motion below Scientology told Judge Sohigian it would not consider Armstrong's performance of routine office tasks on cases against Scientology as a violation of the settlement contract. (Appellant's Appendix at 1642:5-1644:20) After the injunction issued, however, Scientology sought enforcement thereof on the grounds that Armstrong was performing such routine office tasks in cases against Scientology. (Exhibit C, above (Declaration of Laurie J. Bartilson In Support of Application of Order to Show Cause Why Gerald Armstrong Should not be Held In Contempt filed December 31, 1992) at 44:25-47:16)

The foregoing also has particular application to Appellant's vagueness and overbreadth argument in Appellant's Opening Brief at Part IV, pp. 29-30.

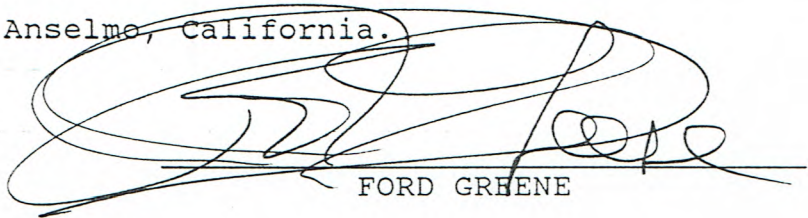
c. Moreover, the papers which are the subject of this motion/request for judicial notice address contempt proceedings were are predicated on the basis of Armstrong's activities which are protected as First Amendment activities of free speech and free association. Despite Scientology's motion for a preliminary injunction having included such activities within its scope, Judge Sohigian denied injunctive relief with respect thereto. Nonetheless, Scientology has attempted to use the injunction below as a means of having Armstrong found in contempt. (see Exhibit C at 34:23-36:21, 47:7:17-50:21 [Armstrong's First



Amendment activities]; Appellant's Appendix at 18:9-12 [seeking enforcement of entire settlement contract by injunction]; and Appellant's Appendix at 17-14-1717 [the injunction].

It is respectfully submitted that all of the foregoing papers are relevant to Armstrong's argument on appeal that the injunction is unconstitutionally vague, and by virtue of such vagueness is susceptible of being discriminatorily enforced in violation of Armstrong's rights (1) to notice protected by Due Process Clauses of the Fourteenth and Fifth Amendments and, (2) to free speech and free association.

I hereby declare pursuant to the laws of the State of California that the foregoing is true and correct. Executed on March 13, 1994 at San Anselmo, California.



FORD GREENE



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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES  
DEPARTMENT NO. 86 HON. DIANE WAYNE, JUDGE  
CHURCH OF SCIENTOLOGY, )  
 )  
Plaintiff, )  
 )  
vs. ) NO. BC 052 395  
 )  
GERALD ARMSTRONG, et al., )  
 )  
Defendants. )  
\_\_\_\_\_ )

TRANSCRIPT OF PROCEEDINGS

March 5, 1993

APPEARANCES:

(See appearance page.)

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COPY

COURT MONITOR: E. VELASCO  
TRANSCRIPTION BY: FOX TRANSCRIPTIONS



1 APPEARANCES:

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1 LOS ANGELES, CALIFORNIA, FRIDAY, MARCH 5, 1993, A.M.

2 DEPARTMENT NO. 86

HON. DIANE WAYNE, JUDGE

3  
4 THE COURT: Church of Scientology versus Armstrong.

5 MR. WILSON: Good morning, Your Honor.

6 Andrew Wilson and Laurie Bartilson appearing on  
7 behalf of the plaintiff, Church of Scientology.

8 MR. GREENE: Good morning, Your Honor.

9 Ford Greene and Paul Morantz on behalf of Gerald  
10 Armstrong, who is sitting at the end of counsel table.

11 MR. WILSON: Your Honor, before we begin I'd like to  
12 ask the court's permission to have Mr. Michael Hertzberg sit  
13 at counsel table with me. He's not counsel in this action.  
14 He's a New York attorney who represented my client in the  
15 previous Armstrong action on the appeal.

16 THE COURT: It won't be necessary because we're not  
17 going to go very far.

18 Gentlemen, let me ask -- I'm sorry.

19 MR. WILSON: Okay.

20 THE COURT: This case is on appeal?

21 MR. WILSON: Yes.

22 THE COURT: And it just seems to me -- you're the  
23 moving party?

24 MR. WILSON: That's correct.

25 THE COURT: It seems to me ridiculous to hold this  
26 hearing prior to a determination whether or not this is a  
27 valid order. I mean, I have some serious questions about the  
28 validity of the order. And I'm not prepared to waste my



1 time, if it's going to be heard. And apparently it's going  
2 to be heard very soon, because the briefs have already been  
3 filed and one is left to be filed; is that correct?

4 MR. GREENE: Actually, Your Honor, the respondent's  
5 brief is due. Scientology's brief is due on March 22nd.

6 THE COURT: The respondent being the moving party here?

7 MR. GREENE: Being the moving party here and the  
8 plaintiff in the action. And, as we noted in a footnote in  
9 our papers and we were going to call the court's attention to  
10 that fact again this morning.

11 THE COURT: It just seems like an inordinate waste of  
12 our time.

13 MR. WILSON: May I address that point?

14 THE COURT: Sure. You can address, but --

15 MR. WILSON: And I will attempt to convince you.

16 THE COURT: You're not. Especially after seeing all  
17 the papers you filed.

18 MR. WILSON: The point here is not whether  
19 Judge Sohigian made an error.

20 THE COURT: No, no. I absolutely agree and I would not  
21 relitigate the validity of the order and I'm not going to  
22 relitigate that. And I think you're absolutely right. But  
23 it does have to be a valid order.

24 Now, I don't know how broadly or narrowly you  
25 find that but I think that it's stupid for me to waste my  
26 time, your time, deciding whether or not Mr. Armstrong is in  
27 actual contempt of an order that may be set aside.

28 MR. WILSON: I agree it would not be a good use of your



1 time.

2 THE COURT: Well, I don't mean that my time is so  
3 valuable. I don't mean it in that sense.

4 MR. WILSON: It would not be a good use of judicial  
5 time, but I don't believe that any of the issues --

6 THE COURT: That's not my personal time that I'm  
7 talking about.

8 MR. WILSON: I don't believe that any of the issues  
9 that are going to be addressed on appeal will solve the  
10 problem of whether Mr. Armstrong should be held in contempt  
11 for this very simple reason:

12 The cases say that the only excuse that  
13 Mr. Armstrong could have for violating this court's order  
14 would be if the court did not have jurisdiction. And the  
15 cases talk about what that jurisdiction is and it's either  
16 personal jurisdiction and subject matter jurisdiction.

17 There's no question that Judge Sohigian had  
18 jurisdiction to issue this order. Mr. Greene tries to  
19 bootstrap his arguments, which are essentially arguments that  
20 Judge Sohigian's order was wrong, into arguments that  
21 Judge Sohigian did not have jurisdiction.

22 But if you look at the cases that we've cited --  
23 and I think this is a very important point -- particularly  
24 the Walker v. City of Birmingham case, where in that case  
25 there was an injunction issued against people marching, a  
26 Civil Rights march, that involved the infamous Bull Connor,  
27 who didn't give them a permit. A court enjoined them; they  
28 violated the injunction and it went all the way up to the



1 Supreme Court.

2 And the Supreme Court said it doesn't matter this  
3 ordinance was unconstitutional; it doesn't matter whether  
4 your rights of free speech were violated. What matters is  
5 you cannot disobey the order of the court.

6 And in the Walker case the Supreme Court made a  
7 statement, and I'd like to read it to you briefly. And the  
8 court said, "Without question, the state court that issued  
9 the injunction had, as a court of equity, jurisdiction over  
10 the petitioners and over the subject matter of the  
11 controversy. And this is not a case where the injunction was  
12 transparently invalid or had only a frivolous pretense to  
13 validity.

14 We have consistently recognized the strong  
15 interest of state and local governments in regulating the use  
16 of their streets and other public places."

17 I submit to the court that the interest here that  
18 the court has in making sure its orders are obeyed is at  
19 least as strong as the interest of the State in Walker in  
20 regulating its streets and public ways.

21 What's going on here is not that Mr. Armstrong is  
22 involved in this hearing against the Church of Scientology.  
23 This is a case of Mr. Armstrong against this court. There is  
24 an order of this court and he violated it. That's what's  
25 relevant here and there's no issue before the appellate court  
26 that's going to resolve that.

27 THE COURT: Oh, but I think there is. And that's  
28 whether or not this is an order --



1 I'll tell you, when I first looked at this order,  
2 I thought the order was clear until I then read part of the  
3 transcript. Then it became unclear to me. And I think that  
4 is in front of the appellate court, whether or not this is an  
5 order capable of being followed, because Judge Sohigian's  
6 comments that at least it confused me a little bit.

7 So I do think that issue is there and I'm going  
8 to put this matter over until I think that will be decided  
9 without prejudice to anybody's rights and I would suggest  
10 that you return in June. I think that would give us  
11 sufficient time.

12 Your Honor, my concern -- and I know this is not  
13 before the court, but my concern is that Mr. Armstrong has  
14 stated in deposition -- you've probably seen that  
15 statement -- he's not going to obey this agreement no matter  
16 what a court says.

17 We have put forth numerous instances in which we  
18 believe he is --

19 THE COURT: If that's a valid order, each time he  
20 disobeys it, he faces five days in jail. I take contempt  
21 very seriously. And, I mean, I don't treat it lightly and he  
22 just does it at his peril.

23 MR. WILSON: Thank you.

24 THE COURT: All right. Let's pick a date in June. Why  
25 don't we make it June 1st.

26 MR. WILSON: May I be able to look at my calendar?

27 THE COURT: Sure.

28 MR. GREENE: These proceedings are being electronically



1 recorded; right, Judge? Could we get a transcript.

2 THE COURT: Yes.

3 MR. GREENE: Thank you, Your Honor.

4 MS. BARTILSON: Your Honor, the case is scheduled for  
5 trial May 3rd. Judge Horowitz found no problem with going  
6 forward on the trial of this case, despite the appeal. And  
7 essentially the message that I hear Mr. Armstrong being told  
8 is you do the contempt at your peril, but by filing an  
9 appeal, no matter how frivolous, you can avoid an order of  
10 the court.

11 THE COURT: You know what? I don't try to interrupt  
12 you, so try not to interrupt me. All right.

13 MS. BARTILSON: I'm sorry. I apologize, Your Honor.

14 THE COURT: Is June 1st all right?

15 MR. GREENE: For me it's not, Your Honor. I have a  
16 conflict and maybe I can change that conflict, so I'll try.

17 THE COURT: June 1st. Is that all right for you?

18 MR. WILSON: Yes, it is, Your Honor.

19 THE COURT: We'll see you back here June 1st.

20 Mr. Armstrong, you are ordered to return on  
21 June 1st at 9:30.

22 MR. GREENE: Thank you, Your Honor.

23  
24 (Proceedings concluded.)  
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 86

HON. DIANE WAYNE, JUDGE

CHURCH OF SCIENTOLOGY,

Plaintiff,

vs.

GERALD ARMSTRONG, et al.,

Defendants.

NO. BC 052 395

STATE OF CALIFORNIA )

COUNTY OF LOS ANGELES )

ss.

I, MARIE FOX, a duly designated transcriber, do hereby declare and certify under penalty of perjury that I have caused to be transcribed the portion of tape 1 which was duly recorded in the Superior Court of the State of California, County of Los Angeles, Department 86, on the 5th day of March, 1993, in the above-mentioned case, and that the foregoing 6 pages comprise a true and correct, accurate transcription of the aforementioned tape.

Dated this 19th day of March, 1993.

*Marie Fox* COPY

Transcriber

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PROOF OF SERVICE

STATE OF CALIFORNIA       )  
                                  ) ss.  
COUNTY OF LOS ANGELES    )

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On March 22, 1993, I served the foregoing document NOTICE OF FILING OFFICIAL COURT TRANSCRIPT on interested parties described as in this action,

[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] a true copy thereof in sealed envelopes addressed as follows:

Paul Morantz, Esq.                               BY MAIL  
P.O. Box 511  
Pacific Palisades, CA 90272

Ford Greene, Esq.           BY FAX AND MAIL  
HUB LAW OFFICES  
711 Sir Francis Drake Blvd.  
San Anselmo, CA 94960

[X] BY MAIL

[ ] \*I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of

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deposit for mailing in affidavit.

Executed on March 22, 1993 at Los Angeles, California.

- [ ] **\*\*(BY PERSONAL SERVICE)** I delivered such envelope by hand to the offices of the addressee.

Executed on \_\_\_\_\_, at Los Angeles, California.

- [X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

- [ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Signature

\* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

\*\* (For personal service signature must be that of messenger)

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1 Andrew H. Wilson  
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12 (213) 661-4030

13 Attorneys for Plaintiff  
14 CHURCH OF SCIENTOLOGY INTERNATIONAL

ORIGINAL FILED

DEC 31 1992  
LOS ANGELES  
SUPERIOR COURT

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA

16 FOR THE COUNTY OF LOS ANGELES

17 CHURCH OF SCIENTOLOGY OF  
18 INTERNATIONAL, a California  
19 not-for-profit religious  
20 corporation;

21 Plaintiff,

22 vs.

23 GERALD ARMSTRONG and DOES 1  
24 through 25, inclusive,

25 Defendants.

) Case No. BC 052395

) ORDER TO SHOW CAUSE RE CONTEMPT

2-16-93

8:30 a.m.

Dept. 86

26 TO: GERALD ARMSTRONG:

27 Good cause appearing,

28 YOU ARE ORDERED to appear in Department No. 86 of this  
29 Court, located at 111 North Hill Street, Los Angeles, California  
30 90012, on ~~January~~ February 16, 1993 at 8:30 a.m., to show cause why ~~you~~  
31 ~~should not be adjudged to be~~  
32 ~~order holding you in contempt of Court requested by plaintiff~~  
33 ~~for alleged violations of the Court's order of May 28, 1992.~~  
34 ~~should not be made by this Court.~~

35 ~~you are held to be in contempt of court,~~  
36 ~~If plaintiff's motion is granted, you will be ordered to~~  
37 ~~held in criminal contempt of this Court, subject to a fine not~~  
38 ~~to exceed \$1,000.00 and jail time not to exceed five days as~~  
39 ~~to: each contempt,~~

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1 this Court sees fit, and further will be ordered to pay  
2 Plaintiff's costs, including attorneys' fees, in the bringing of  
3 the Application for Order to Show Cause Why Gerald Armstrong  
4 Should Not Be Held in Contempt.

5  
6 Date: DEC 31 1992

RONALD M. SOHIGIAN

Judge Ronald Sohigian

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12 Attorneys for Plaintiff  
13 CHURCH OF SCIENTOLOGY  
14 INTERNATIONAL

**FILED**  
LOS ANGELES SUPERIOR COURT

DEC 31 1992

JAMES H. DEMPSEY, CLERK  
BY [Signature] DEPUTY

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA

16 FOR THE COUNTY OF LOS ANGELES

17 CHURCH OF SCIENTOLOGY  
18 INTERNATIONAL, a California not-  
19 for-profit religious corporation,

20 Plaintiff,

21 vs.

22 GERALD ARMSTRONG; DOES 1 through  
23 25, inclusive,

24 Defendants.

) CASE NO. BC 052395  
)  
) EX PARTE APPLICATION FOR  
) ORDER TO SHOW CAUSE WHY  
) GERALD ARMSTRONG SHOULD NOT  
) BE HELD IN CONTEMPT;  
) MEMORANDUM OF POINTS AND  
) AUTHORITIES; DECLARATIONS  
) OF LAURIE BARTILSON AND  
) KENDRICK L. MOXON AND  
) SUPPORTING EXHIBITS  
)  
) DATE: December 31, 1992  
) TIME: 1:30 p.m.  
) DEPT: 88  
) DISCOVERY CUT-OFF: None  
) MOTION CUT-OFF: None  
) TRIAL DATE: May 3, 1992

25 TO DEFENDANT AND GERALD ARMSTRONG AND HIS COUNSEL OF RECORD:

26 Notice is hereby given that on December 31, 1992 at 1:30  
27 p.m., or as soon thereafter as the matter may be heard, in  
28 Department 88 of the above-entitled court, located at 111 North  
Hill Street, Los Angeles, California 90012, plaintiff Church of  
Scientology International ("Church") will move for an order from

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1 this Court directing defendant Gerald Armstrong ("Armstrong") to  
2 appear and to show cause why he should not be held in contempt of  
3 this Court and criminally sanctioned for such contempt. This  
4 application is made on the ground that Armstrong has knowingly  
5 violated this Court's May 28, 1992 preliminary injunction order  
6 by voluntarily assisting at least six persons litigating or  
7 otherwise pursuing claims against the Church, affiliated Churches  
8 of Scientology and/or Church staff. All of the targeted Churches  
9 of Scientology and staff are included within the group of  
10 protected persons referenced in the May 28, 1992 Order. The six  
11 persons who Armstrong has admittedly assisted since May 28, 1992  
12 include Richard and Vicki Aznaran. Armstrong's earlier  
13 assistance to the Aznarans was central to the Church's successful  
14 preliminary injunction motion in this case.

15 While the Church has attempted to obtain, informally,  
16 Armstrong's compliance with this Court's May 28, 1992 Order  
17 during the past six months, such efforts have been repeatedly  
18 rebuffed by Armstrong. As such, the Church comes to no  
19 alternative but to submit this application. Coupled with his  
20 post-May 28, 1992 pronouncements that he has no intention of  
21 complying with any such order of the Court, Armstrong is clearly  
22 flaunting the authority of this Court in a manner that should be  
23 criminally sanctioned by fine and/or imprisonment under Code of  
24 Civil Procedure § 1218. If this Court does enter a finding of  
25 such contempt pursuant to Code of Civil Procedure § 1209, et  
26 seq., the Church submits that Armstrong's actions also warrant  
27 referral to the District Attorney for misdemeanor prosecution  
28 under Penal Code § 166(4).

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1 Defendant Armstrong has been notified of this Application  
2 pursuant to Law and Discovery Policy Manual Para. 261, et seq.  
3 [Declaration of Kendrick L. Moxon.]

4 This application is based upon the attached memorandum of  
5 points and authorities, the attached Declaration of Laurie  
6 Bartilson and other supporting exhibits, the pleadings and  
7 records on file in this case and such further evidence and  
8 argument as may be allowed at the hearing on this application.

9 Dated: December 31, 1992

Respectfully submitted,

Andrew H. Wilson  
WILSON, RYAN & CAMPILONGO

BOWLES & MOXON

10  
11  
12  
13 By:

  
Laurie J. Bartilson

14  
15 ATTORNEYS FOR PLAINTIFF  
16 CHURCH OF SCIENTOLOGY  
17 INTERNATIONAL  
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II.

FACTUAL STATEMENT

A. The May 28 Order and Armstrong's Sworn  
Intention to Disregard It

The May 28 Order clearly states its prohibitions against Armstrong's voluntary assistance of claimants adverse to the Church:

Defendant Gerald Armstrong, his agents, and persons acting in concert or conspiracy with him (excluding attorneys at law who are not said defendant's agents or retained by him) are restrained and enjoined during the pendency of this suit pending further order of this court from doing directly or indirectly any of the following:

Voluntarily assisting any person (not a governmental organ or entity) intending to make, intending to press, intending to arbitrate, or intending to litigate a claim against the persons referred to in sec. 1. of the "Mutual Release of All Claims and Settlement Agreement" of December 1986 regarding such claim or regarding pressing, arbitrating or litigating it.

Voluntarily assisting any person (not a governmental organ or entity) arbitrating or litigating a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986.

[Exhibit A, May 28 Order, p. 2, ¶ 6.] These particular prohibitions against Armstrong voluntarily assisting litigants and other claimants were based on paragraph 7G of the December, 1986 "Mutual Release of All Claims and Settlement Agreement" ("Settlement Agreement") referenced in the Order,<sup>1</sup> which this

---

<sup>1</sup> Paragraph 7G of the Settlement Agreement states:

G. Plaintiff [Armstrong] agrees that he will not voluntarily assist or cooperate with any person adverse to Scientology in any proceeding against any of the Scientology organizations, individuals, or entities listed in Paragraph 1 above. Plaintiff also agrees that he will not cooperate in any manner with any organization aligned against Scientology. [Exhibit B, Settlement Agreement.]

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1 Court found the Church held a reasonable probability of enforcing  
2 after trial. [Id., p. 1, ¶ 3.<sup>2</sup>]

3 Less than a month after the May 28 Order was issued,  
4 Armstrong asserted under oath in deposition that he would not  
5 honor its terms:<sup>3</sup>

6  
7 <sup>2</sup> As to the persons protected by this prohibition against  
8 assistance of adversaries, paragraph 1 of the Settlement  
9 Agreement states, in relevant part: ". . .the officers, agents,  
10 representative employees, volunteers, directors, successors,  
11 assigns, and legal counsel of [Church of Scientology  
12 International] as well as the Church of Scientology California,  
13 its officers, agents, representatives, employees, volunteers,  
14 directors, successors, assigned and legal counsel; Religious  
Technology Center, its officers, agents, representatives,  
employees, volunteers, directors, successors, assigns and legal  
counsel; all Scientology and Scientology affiliated organizations  
and entities and their officers, agents, representatives,  
employees, volunteers, directors, successors, assigns and legal  
counsel; L. Ron Hubbard, his heirs, beneficiaries, Estate and its  
executor; Author's Family Trust, its beneficiaries and its  
trustee; and Mary Sue Hubbard ..."

15 <sup>3</sup> Armstrong's intentional disregard for the court's orders  
16 in this case was also demonstrated by his actions subsequent to  
17 the March 5, 1992 issuance the temporary restraining order by  
18 Judge Dufficy of the Marin County Superior Court ("Armstrong  
19 TRO"). As the court's record shows, the Armstrong TRO restrained  
20 him, inter alia, from disclosing his experiences to third par-  
21 ties, including the press, as well as from assisting actual and  
22 prospective anti-Church litigants. However, through the March 12,  
23 1992 deposition testimony in the matter of Hunziker, et al. v.  
24 Applied Materials, et al., Santa Clara County Superior Court No.  
25 692629, Armstrong revealed that he was actively assisting the  
26 plaintiffs in that case in violation of the Armstrong TRO with  
27 negative materials on Scientology [Exhibit C, March 12 deposition  
28 of Gerald Armstrong in Hunziker, pp. 254-256, 323-330] and, in  
his October 7, 1992 deposition in the instant case, admitted that  
he had: (a) had discussions with Time Magazine reporter Richard  
Behar regarding the latter's litigation against the Church in the  
matter of Church of Scientology International v. Time Warner,  
Inc., Richard Behar, et al., U.S. District Court, Southern  
District of New York, No. 92 Civ. 3024(PKL); and (b) participated  
in the issuance of a press release critical of the Church and the  
Armstrong TRO on March 19, 1992. [Exhibit D, October 7, 1992  
Deposition of Gerald Armstrong, pp. 338-339, 386-387; Exhibit E,  
press release.] As this Court's record also shows, on March 27,  
1992, Judge Dufficy extended the Armstrong TRO to May 11, 1992.  
Nevertheless, Armstrong continued to violate that restraining  
(continued...)

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1 I have absolutely no intention of honoring that  
2 settlement agreement. I cannot. I cannot logically. I  
3 cannot ethically. I cannot morally. I cannot  
4 psychically. I cannot philosophically. I cannot  
5 spiritually. I cannot in any way. And it is firmly my  
6 intention to not honor it.

7 Q. No matter what a court says?

8 A. No court can order it. They're going to have  
9 to kill me.

10 [Exhibit F, June 24, 1992 deposition of Gerald Armstrong, p. 124;  
11 Declaration of Laurie J. Bartilson, ¶ 4.<sup>4</sup>]

12 Armstrong's intention to ignore the May 28 Order was  
13 reiterated in a letter sent by Armstrong to plaintiff's counsel,  
14 dated December 22, 1992. [Exhibit G.] In that letter, which is  
15 copied to his own attorneys but not sent by them,<sup>5</sup> Armstrong  
16 threatens that, if he is not paid \$500,000 and this lawsuit  
17 dismissed, he intends to travel voluntarily to South Africa to  
18 testify against a church of Scientology, give interviews to the  
19 media, and voluntarily assist anyone and everyone opposing  
20 Churches that he can locate. [Id., pp. 3, 4, 6, 7, 8.] Expressing

21 <sup>3</sup>(...continued)  
22 order, conducting post-extension hearing interviews with the  
23 press on March 27, 1992 (Don Knapp of CNN), in April, 1992  
24 (William Horne of American Lawyer Magazine) and, possibly, with  
25 Behar. [Exhibit D, Armstrong Deposition, pp. 342-344, 348-355,  
26 386-387.]

27 <sup>4</sup> Similarly, Armstrong has confirmed that he indicated to  
28 Los Angeles Times reporter Robert Welkos his, Armstrong's,  
intention not to comply with the May 28 Order. [Exhibit D,  
October 7, 1992 Armstrong Deposition, pp. 378-379; Declaration of  
Laurie J. Bartilson, ¶ 5.]

<sup>5</sup> In what can only be described as deliberate harassment,  
Armstrong also sent copies of the letter to 35 individuals and  
groups, including anti-Church litigants, such as Vicki and  
Richard Aznaran, Larry Wollersheim and Joseph Yanny, and lawyers  
who represent clients in actions brought against one of more  
churches, including Toby Plevin, John Elstead, and Dan Leipold.



1 the viewpoint that the May 28 Order places no restrictions  
2 whatsoever on his conduct, Armstrong states:

3 I consider myself free to do anything anyone can,  
4 except testify absent a subpoena. Much of what I am  
permitted to do I am going to do. . . .

5 I will continue to associate with and befriend all  
6 those people I consider you attack unjustly and  
7 senselessly. I will make my knowledge and support  
8 available to the Cult Awareness Network, a group of  
9 people of good will you vilify, in all the litigation  
you have fomented against them. . . . I will even  
make my knowledge and support available to entities  
like Time and people like Rich Behar in their defenses  
from your attacks.<sup>7</sup>

10 [Exhibit G, p. 3.] In that same letter, Armstrong makes plain  
11 the personal contempt which he has for a Court which would rule  
12 against him:

13 There is also, as mentioned above, the fact that  
14 in order to defend myself from your attacks and to fund  
15 the defense of the litigation you have fomented I must  
16 speak and must publish. I'm sure you understand that I  
17 remain completely confident that no court, other than  
the odd one your mercenaries are able to compromise  
with bucks, babes or bull, will order me not to defend  
myself.

18 [Id. p. 5].

19 B. Armstrong's Contemptuous Violation of  
20 The May 28 Order

21 Since the May 28 Order, Armstrong has defiantly aided at

22 <sup>6</sup> The Cult Awareness Network is an anti-religious group that  
23 advocates the kidnapping and forcible "deprogramming" of  
24 individuals belonging to religions which they have identified as  
25 "cults." While the Church is not presently suing the Cult  
26 Awareness Network in any litigation, the president of the Cult  
Awareness Network, Cynthia Kisser, has initiated an action  
against the Church and its president, Heber Jentzsch. [Bartilson  
Dec., ¶ 17.]

27 <sup>7</sup> Behar is the author of a Time cover story concerning the  
28 Church which ran in May, 1991. The Church is presently engaged  
in a lawsuit against Time and Behar for defamation. [Bartilson  
Dec., ¶ 18]

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1 least six claimants and litigants that fall within the above  
2 quoted prohibitions. That provision of voluntary assistance has  
3 included the following:

4 1. Vicki and Richard Aznaran

5 As initially raised in the Church's February 4, 1992  
6 preliminary injunction motion in this case, Armstrong continues  
7 to be employed as a paralegal at the law offices of his counsel  
8 Ford Greene. [Exhibit H, July 22, 1992 Deposition of Gerald  
9 Armstrong, pp. 186-189; Bartilson Dec., ¶ 6]; see also, February  
10 4, 1992 Memorandum of Points and Authorities in Support of  
11 Plaintiff's Motion for Preliminary Injunction for Breach of  
12 Contract ("Injunction Memorandum"), pp. 2-3.

13 A central point raised in the Church's Injunction Memorandum  
14 was Armstrong's assistance via Ford Greene to anti-Church  
15 litigants Richard and Vicki Aznaran. Id. It came to Church  
16 counsel's attention in early July, 1992 that Mr. Greene, after a  
17 hiatus, was again representing the Aznarans in the matter of  
18 Vicki Aznaran and Richard Aznaran v. Church of Scientology  
19 International, et al., U.S. District Court, Central District of  
20 California No. CV-88-1786-JMI(Ex). Consequently, a letter was  
21 sent on July 7, 1992 seeking Armstrong's and Greene's undertaking  
22 that Armstrong would not violate the May 28 Order by Armstrong's  
23 assistance in the Aznarans' case. [Exhibit I, July 7, 1992  
24 Bartilson letter; Bartilson Dec., ¶ 7.] In a July 11, 1992  
25 response, Mr. Greene declined to make any such assurances.  
26  
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1 [Exhibit J, July 11, 1992 Greene letter; Bartilson Dec., ¶ 8.<sup>8</sup>]  
2 However, as Greene's paralegal, Armstrong has, since Greene's  
3 July 11 letter, admitted to "broadly discussing" with the Aznar-  
4 ans matters concerning their case against the Church and has  
5 assisted in the relay of communications between the Aznarans and  
6 Greene. [Exhibit D, October 8 Armstrong Deposition, pp. 448-  
7 451.] [See also, Exhibit K, July 18, 1992 Bartilson letter  
8 documenting Armstrong's direct contact relating to the Aznaran  
9 case and requesting again that he cease and desist; Exhibit L,  
10 July 30, 1992 proofs of service executed by Armstrong in the  
11 Aznaran case; Bartilson Dec., ¶¶ 8-11.] While his counsel has  
12 raised work product and attorney-client communications objections  
13 to disclosing the content of Armstrong's communications with the  
14 Aznarans [see footnote 7 and Exhibit D, pp. 448-451; Exhibit J,  
15 Greene's July 11, 1992 letter], Armstrong's admissions of  
16 assistance are ample evidence of his knowing violation of the May  
17 28 Order.

18 2. Tillie Good, Denise Cantin and Ed Roberts

19 Moreover, Armstrong has admitted providing assistance  
20 through Greene to three other potential litigants pursuing claims  
21 against Church entities that fall within the scope of the May 28  
22

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23 <sup>8</sup> Mr. Greene's letter was an early indication of the manner  
24 in which he and Armstrong would attempt to avoid compliance with  
25 the May 28 Order, first disingenuously labelling it "somewhat  
26 cryptic and difficult to enforce" and then claiming that  
27 confirmation of whether or not Armstrong was violating that order  
28 as Greene's paralegal invaded Greene's clients' attorney work  
product and confidential communications privileges. Id.  
However, as shown by Armstrong's subsequent actions and  
admissions, there is no doubt that Armstrong has used his  
paralegal position in Mr. Greene's office to engage in repeated  
violations of the May 28 order.



1 Order: (a) Tillie Good; (b) Denise Cantin; and (c) Ed Roberts.  
2 [Exhibit D, October 8 Armstrong Deposition, pp. 451-458;  
3 Exhibit M, July 19, 1992 demand letter regarding Tillie Hanna  
4 Good; Exhibit N, July 2, 1992 demand letter regarding Denise  
5 Cantin; Exhibit O, September 4, 1992 demand letter regarding Ed  
6 Roberts; Bartilson Dec., ¶ 12.] While Mr. Greene again  
7 foreclosed inquiry into the specifics of Armstrong's assistance  
8 in these cases [Exhibit C at 451-458], Armstrong did admit that  
9 he had met with and interviewed Mr. Roberts concerning the  
10 latter's Church dispute and has spoken with him some seven times  
11 since then. [Id. at 455-457.]

12 Indeed, Armstrong's assistance to Mr. Roberts is apparently  
13 independent of any assistance which Armstrong provides to Mr.  
14 Greene. In his December 22 letter, Armstrong asserted that he  
15 "is the only person in the world willing to help Mr. Roberts  
16 against your organization." [Exhibit G, p. 7.] In that letter,  
17 Armstrong includes the payment of an unspecified amount to Mr.  
18 Roberts as a "condition" to the ending of Armstrong's campaign of  
19 harassment against the Church. [Id. p. 6-7.]

20 As with his assistance to the Aznarans, Armstrong's work  
21 with these three litigants violates the letter and intent of the  
22 May 28 Order.

23 3. Jerry Whitfield

24 In addition, the Church has just learned that Armstrong  
25 engaged in a lengthy videotaped interview on November 6, 1992  
26 concerning his purported Church experiences with anti-Church  
27 litigant Jerry Whitfield and others. [Exhibit P, transcript of  
28 November 6, 1992 interview at convention of the Cult Awareness



1 Network; Exhibit Q, videotape thereof; Bartilson Dec., ¶ 21.]  
2 Whitfield, a self-proclaimed "specialist" in the "deprogramming"  
3 of Church of Scientology parishioners, is currently a defendant  
4 in a false imprisonment and false arrest suit brought by Church  
5 staff member Angel Casillas, Angel Casillas v. Jerry Whitfield,  
6 Hanna Whitfield and Does 1-25, Los Angeles Municipal Court Case  
7 No. 91K49349.

8 The November 6 interview -- in which Armstrong admits his  
9 actions are in violation of the May 28 order<sup>9</sup> -- demonstrates  
10 conclusively that Armstrong knowingly has chosen to disregard and  
11 flaunt the Preliminary Injunction issued by this Court. In  
12 supplying Whitfield with a video tape for Whitfield's use in  
13 forcible deprogrammings to force unwilling Scientologists to  
14 renounce their faith and for possible use in the Casillas case,  
15 Armstrong has once again directly and voluntarily supported an  
16 adverse litigant to the Church. Indeed, the making of the video  
17 tape by Armstrong at all is another deliberate violation or yet  
18 another provision of the Settlement Agreement itself, as well as  
19 a violation of the preliminary injunction. In Paragraph 6(D) of  
20 the Agreement, Armstrong agreed, inter alia,

21 [N]ever to create or publish or attempt to publish,  
22 and/or assist another to create for publication by

23 <sup>9</sup> While again proclaiming that he will never comply with the  
24 order, Armstrong acknowledges that the interview itself is in  
25 violation: "I cannot, except pursuant to a subpoena, assist  
26 someone intending to file a claim or pressing a claim against the  
27 organization. Now then we are appealing even that narrow ruling,  
28 because that's unenforceable because if you construe that my ...  
that this video could possibly indirectly help someone in the  
future, I can't do this. And not only that but if you consider  
that my existence indirectly or directly helps someone, then I'll  
oblige to take my own life. In other words I must stop breath-  
ing." Exhibit P, November 6 interview transcript, p. 31.



1 means of magazine, article, book or other similar form,  
2 any writing or to broadcast of to assist another to  
3 create, write, film or video tape or audio tape any  
4 show, program or movie, or to grant interviews or  
5 discuss with others, concerning their experiences with  
6 the Church of Scientology, or concerning their personal  
7 or indirectly acquired knowledge or information  
8 concerning the Church of Scientology, L. Ron Hubbard or  
9 any of the organizations, individuals and entities  
10 listed in Paragraph 1 above. [Armstrong] further  
11 agrees that he will maintain strict confidentiality and  
12 silence with respect to his experiences with the Church  
13 of Scientology and any knowledge or information he may  
14 have concerning the Church of Scientology, L. Ron  
15 Hubbard, or any of the organizations, individuals and  
16 entities listed in Paragraph 1 above. . . .

17 Armstrong's production, with Whitfield, of a videotaped  
18 interview which purports to discuss both his and Whitfield's  
19 experiences with the Church, and which was created to be shown by  
20 Whitfield to victims he hopes to "deprogram" from the Scientology  
21 faith, despite the Agreement, despite the May 28 Order, and  
22 despite repeated notice from counsel for plaintiff that plaintiff  
23 intended to enforce both the Agreement and the May 28 Order  
24 demonstrate most eloquently the contempt which Armstrong has for  
25 the legal process, plaintiff's rights, and this Court. His  
26 defiance is not accidental or a minor misstep: it is deliberate,  
27 flagrant, defiant contempt. If ever a case cried out for the  
28 issuance of an order to show cause, this is that case.

### 29 III.

#### 30 DISCUSSION

31 The Church seeks an order to show cause why Armstrong should  
32 not be held in criminal contempt of the May 28 Order.<sup>10</sup> As

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33 <sup>10</sup> The Church does not seek a civil contempt of the May 28  
34 Order as coercive confinement would, at best, result in  
35 Armstrong's "promise" not to violate that order, clearly a  
36 meaningless act in light of Armstrong's demonstrable lack of

(continued...)



1 embodied in Code of Civil Procedure § 1209 et seq., the Court has  
2 the power to punish acts, such as Armstrong's, which impede and  
3 obstruct the discharge of its duties. See, Morelli v. Superior  
4 Court (1969) 1 Cal.3d 328, 333, 82 Cal.Rptr. 375 (criminal  
5 contempt proceedings arising out of a civil action are aimed at  
6 the vindication of the authority of the court).

7 Violations of court orders constitute contempt. This Court  
8 has inherent power to enforce execution of its equity decrees:  
9 Brown v. Brown (1971) 22 Cal.App.3d 82, 84, 99 Cal.Rptr. 311  
10 (same). Moreover, Code of Civil Procedure § 1209(a) specifically  
11 provides, in relevant part:

12 [T]he following acts or omissions in respect to a court  
13 of justice, or proceedings therein, are contempts of  
14 the authority of the court:

15 5. Disobedience of any lawful . . . order . . . of the  
16 court.

17 See also, Reliable Enterprises, Inc. v. Superior Court (1984) 158  
18 Cal.App.3d 604, 204 Cal.Rptr. 786 (criminal contempt adjudication  
19 for violation of preliminary injunction upheld); Pacific  
20 Telephone and Telegraph Co. v. Superior Court (1968) 265  
21 Cal.App.2d 370, 72 Cal.Rptr. 177 (Section 1209 contempt  
22 proceedings are special proceedings, criminal in character and  
23 intended to implement the inherent power of the court to enforce  
24 its lawful orders); Vanderstok v. Bank of America (1972) 29  
25 Cal.App.3d 731, 734, 105 Cal.Rptr. 699 (contempt proceeding is a  
26 proper process for enforcement of an injunction order).

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27 <sup>10</sup>(...continued)  
28 credibility on undertakings to honor his agreements.



1 In order to establish such an indirect contempt committed  
2 out of the immediate presence of the court, the moving party must  
3 demonstrate by sworn statement facts constituting the violation  
4 of the court's order. Code of Civil Procedure § 1211. The  
5 moving party's affidavit or declaration "need only make a prima\*  
6 facie showing of the elements of contempt. Those elements are  
7 that the court made a lawful order; the person cited for contempt  
8 had knowledge or notice of the order; and the person was able to  
9 comply, yet willfully disobeyed the order." Crawford v.  
10 W.C.A.B.. (1989) 213 Cal.App.3d 156, 169, 259 Cal.Rptr. 414, 422-  
11 423.

12 The Church, through the accompanying declaration of Laurie  
13 J. Bartilson, has met each of these requirements. Present at the  
14 depositions in which Armstrong made the admissions specified in  
15 Section II, supra, the recipient of the phone call and proofs of  
16 service Armstrong effected in aid of the Aznaran's case, and the  
17 recipient of Armstrong's December 22 letter, Ms. Bartilson  
18 establishes through her declaration: (a) Issuance of the valid  
19 May 28 Order; (b) Notice to Armstrong of the May 28 Order  
20 (through notice to his attorneys, in the manner authorized by the  
21 Court, on June 5, 1992) [Bartilson Dec., ¶ 3 and Exhibit S];  
22 (c) Armstrong's knowledge of the May 28 Order (through his  
23 statements that he was aware of but would never comply with such  
24 order) [Bartilson Dec., ¶¶ 4, 5, 9, 10 and 13]; (d) Armstrong's  
25 ability to have complied with such order (through his actions of  
26 assistance to anti-Church litigants, Armstrong is just as able to  
27 desist from such actions) [Bartilson Dec., ¶¶ 4, 5, 9, 11, 12 and  
28 13]; and (e) Armstrong's willful disobedience of the subject



1 order (through his refusal to cease and desist from the  
2 prohibited assistance after direct notice and demand by Church  
3 counsel) [Bartilson Dec., ¶¶ 4, 5, 9, 11, 12, 13 and 14.]

4 Accordingly, Armstrong should be ordered to Show Cause why  
5 he should not be held in criminal contempt of this Court, with  
6 punishment in the form of fine not to exceed \$1,000.00 and jail  
7 time not to exceed five days as this Court sees fit. Code of  
8 Civil Procedure § 1218. The Court should exercise all of its  
9 available powers to impress upon Armstrong that its orders mean  
10 what they say and will be enforced, despite the intransigence of  
11 an enjoined party. Indeed, incarceration is an unusually viable  
12 vehicle for impressing upon Armstrong the import of his  
13 obligations, inasmuch as Armstrong has publicly disavowed money  
14 as a meaningful or valuable commodity. [Exhibit R.] Moreover,  
15 with Armstrong expressing his "to the grave" defiance of the May  
16 28 Order, the Church submits that upon a finding of contempt  
17 under Code of Civil Procedure § 1209, et seq., referral to the  
18 District Attorney for misdemeanor prosecution under Penal Code §  
19 166(4) is also appropriate to address such a defiant, willful  
20 challenge to the Court's authority.

21 IV.

22 CONCLUSION

23 For the foregoing reasons, plaintiff Church respectfully  
24 requests that the Court order that Armstrong show cause why he  
25 should not be held in contempt of court and why plaintiff Church

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27 ///

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1 should not be awarded its costs, including attorneys' fees, in  
2 bringing this motion.

3 Dated: December 31, 1992

Respectfully submitted,

4 Andrew H. Wilson  
WILSON, RYAN & CAMPILONGO

5 BOWLES & MOXON

6  
7 By:   
8 Laurie J. Bartilson

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CHURCH OF SCIENTOLOGY  
INTERNATIONAL  
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15 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
16 FOR THE COUNTY OF LOS ANGELES

12 CHURCH OF SCIENTOLOGY	) CASE NO. BC 052395
13 INTERNATIONAL, a California not-	)
14 for-profit religious corporation,	) DECLARATION OF LAURIE J.
	) BARTILSON IN SUPPORT OF
	) APPLICATION FOR ORDER TO
15 Plaintiff,	) SHOW CAUSE WHY GERALD
	) ARMSTRONG SHOULD NOT BE
16	) HELD IN CONTEMPT
17 vs.	)
	)
18 GERALD ARMSTRONG; DOES 1 through	) DATE: December 31, 1992
19 25, inclusive,	) TIME: 1:30 p.m.
	) DEPT: 88
	) DISCOVERY CUT-OFF: None
20 Defendants.	) MOTION CUT-OFF: None
	) TRIAL DATE: May 3, 1992

21  
22 I, LAURIE J. BARTILSON, hereby declare:

23 1. I am a member of the law firm of Bowles & Moxon and am  
24 an attorney admitted to practice in the State of California. My  
25 firm represents plaintiff Church of Scientology International  
26 ("Church") in the instant case. I am submitting this declaration  
27 in support of the Church's Motion for Order to Show Cause Why  
28 Gerald Armstrong Should Not Be Held in Contempt ("Motion") and

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1 said Motion's accompanying memorandum of points and authorities  
2 ("Memorandum"). I have personal knowledge of the matters  
3 specified in this declaration and, if called upon to testify on  
4 such matters, would and could do so competently.

5 2. On May 28, 1992, this Court issued a preliminary  
6 injunction order ("May 28 Order") in this case which stated, in  
7 relevant part:

8 Defendant Gerald Armstrong, his agents, and  
9 persons acting in concert or conspiracy with him  
(excluding attorneys at law who are not said  
10 defendant's agents or retained by him) are  
11 restrained and enjoined during the pendency of  
this suit pending further order of this court from  
doing directly or indirectly any of the following:

12 Voluntarily assisting any person (not a  
13 governmental organ or entity) intending to make,  
intending to press, intending to arbitrate, or  
14 intending to litigate a claim against the persons  
referred to in sec. 1. of the "Mutual Release of  
15 All Claims and Settlement Agreement" of December  
1986 regarding such claim or regarding pressing,  
16 arbitrating or litigating it.

17 Voluntarily assisting any person (not a  
18 governmental organ or entity) arbitrating or  
litigating a claim against the persons referred to  
19 in sec. 1 of the "Mutual Release of All Claims and  
Settlement Agreement" of December, 1986.

20 A true and correct copy of the May 28 Order which I received from  
21 the Court is attached as Exhibit A in support of the Motion.

22 3. On June 5, 1992, I gave notice to Armstrong's lawyers,  
23 Ford Greene and Paul Morantz, of the May 28 Order. A true and  
24 correct copy of the Notice with exhibits and proofs of service is  
25 attached as Exhibit S in support of the Motion.

26 4. At a deposition of Gerald Armstrong ("Armstrong") in  
27 this case on June 24, 1992, he and my co-counsel, Andrew Wilson,  
28 had the following exchange regarding the December 1986 "Mutual

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1 Release and Settlement Agreement" between the Church and  
2 Armstrong ("Settlement Agreement") and the May 28 Order:

3 A. . . . I have absolutely no intention of  
4 honoring that settlement agreement. I cannot. I  
5 cannot logically. I cannot ethically. I cannot  
6 morally. I cannot psychically. I cannot philo-  
sophically. I cannot spiritually. I cannot in  
any way. And it is firmly my intention to not  
honor it.

7 Q. No matter what a court says?

8 A. No court can order it. They're going to have  
9 to kill me.

10 A true and correct copy of the relevant page of the transcript of  
11 that deposition, p. 124, accurately reflecting the statements of  
12 Armstrong and myself, is attached as Exhibit F to the Motion.

13 5. At a continuation of Armstrong's deposition in this  
14 case on October 7, 1992, Armstrong and I had the following  
15 exchange regarding the May 28 Order:

16 Q. When was the next time you spoke to Mr.  
Welkos or Mr. Sappell?

17 A. Around the time of the Sohigian ruling.

18 Q. This is another telephone conversation?

19 A. In that I only met Mr. Welkos on that one  
20 occasion, yes.

21 Q. I apologize. You said that, and I  
22 forgot. And this was a conversation with Mr.  
Welkos?

23 A. Yes

24 Q. Did you call him, or did he call you?

25 A. I believe I originated the conversation.

26 Q. What did he say to you, and what did you  
say to him, during that conversation?

27 A. I believe I advised him of the Sohigian  
28 ruling.

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1 Q. Did you discuss anything else with him?

2 A. I think it was -- That's all that I  
3 recall being the subject of the discussion at that  
4 time.

5 Q. Did you tell him that as a result of the  
6 Sohigian ruling, you now felt that you were more  
7 free to do things that you had been constrained  
8 about doing before?

9 A. No, I never said that. Because I did not  
10 feel I was constrained before. But rather that by  
11 specifically denying the injunction as to all of  
12 those things which the organization sought in the  
13 preliminary injunction, that I was free from the  
14 potential of an injunction.

15 A true and correct copy of the relevant pages of the transcript  
16 of that deposition, pp. 378-379, accurately reflecting the  
17 statements of Armstrong and myself, is attached as part of  
18 Exhibit D to the Motion. On behalf of my client the Church, I  
19 allege that the statements made by Armstrong under oath as quoted  
20 in this paragraph and the paragraph immediately preceding in this  
21 declaration are acknowledgements by Armstrong of his awareness of  
22 the May 28 Order, his ability to act in compliance of such order  
23 and his intention to wilfully disobey its terms.

24 6. At a continuation of Armstrong's deposition in this  
25 case on July 22, 1992, he acknowledged to me under oath that he  
26 continued to be employed by Ford Greene as a paralegal. A true  
27 and correct copy of the relevant pages of the transcript of that  
28 deposition, pp. 186-189, accurately reflecting the statements of  
Armstrong and myself, is attached as Exhibit H to the Motion.

7. On July 7, 1992, I received in the mail a notice of  
association from Ford Greene announcing that he again represented  
Vicki and Richard Aznaran in the matter of Vicki Aznaran and  
Richard Aznaran v. Church of Scientology International, et al.

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1 U.S. District Court, Central District of California No.  
2 CV-88-1786-JMI(Ex) ("Aznaran v. Church"). On that day, I sent  
3 Mr. Greene a letter by telecopier and first class mail. A true  
4 and correct copy of that letter is attached as Exhibit I to the  
5 Motion. In that letter, I requested that Mr. Greene inform me of  
6 the steps that had been and that would be taken to ensure that  
7 Armstrong did not violate the terms of the May 28 Order, in  
8 particular the prohibition that prevented Armstrong from  
9 assisting the Aznarans in their case.

10 8. On or about July 12, 1992, I received a letter from Mr.  
11 Greene, dated July 11, 1992, which responded to the above  
12 referenced letter of July 7, 1992. A true and correct copy of  
13 that letter is attached as Exhibit J to the Motion. In that  
14 letter, Mr. Greene pointedly declined to provide any specific  
15 assurances that Armstrong would not assist the Aznarans or any  
16 other anti-Church litigant or claimant in violation of the  
17 above-cited terms of the May 28 Order. Instead, he characterized  
18 the May 28 Order as "somewhat cryptic and difficult to enforce"  
19 and that as to Armstrong's compliance with said order, I "would  
20 simply have to take [Mr. Greene's] word for it."

21 9. In July, 1992, following my receipt of a copy of a  
22 ruling of Judge Ideman in Aznaran v. Church transferring that  
23 case from the Central District of California to the U.S. District  
24 Court in Dallas, Texas, I received a telephone call from  
25 Armstrong in which he stated that he was calling from Mr.  
26 Greene's office and that he needed to receive immediately by fax  
27 such transfer ruling of Judge Ideman. I told Armstrong that the  
28 May 28 Order prohibited him from assisting the Aznarans or any

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1 other litigants against the Church. He replied that he was  
2 trying to help the Aznarans. On behalf of my client the Church,  
3 I allege that the statements made by Armstrong as relayed in this  
4 paragraph are acknowledgements by Armstrong of his awareness of  
5 the May 28 Order, his ability to act in compliance of such order  
6 and his intention to wilfully disobey its terms.

7 10. On July 18, 1992, I sent another letter to Mr. Greene  
8 by telecopier and first class mail, responding to his July 11,  
9 1992 letter, accurately describing my above referenced July, 1992  
10 conversation with Armstrong and reiterating that Armstrong was  
11 required to immediately cease all work for the Aznarans and to  
12 cease all actions in violation of the May 28 Order. A true and  
13 correct copy of that letter is attached as Exhibit K to the  
14 Motion.

15 11. I received no response to my July 18, 1992 letter from  
16 Mr. Greene. However, on or about August 1, 1992, I received two  
17 proofs of service for Mr. Greene's pleadings in the Aznaran v.  
18 Church case, each of which was executed by Armstrong. True and  
19 correct copies of those proofs of service are attached as Exhibit  
20 L to the Motion. On behalf of my client the Church, I allege  
21 that the actions taken by Armstrong as relayed in this paragraph  
22 are acknowledgements by Armstrong of his ability to act in  
23 compliance of the May 28 Order and his intention to wilfully  
24 disobey its terms.

25 12. In the continuation of Armstrong's deposition in this  
26 case on October 7 and 8, 1992, during which I further examined  
27 Armstrong, he made several additional admissions that I allege  
28 indicate his awareness of the May 28 Order, his ability to act in



1 compliance of such order and his intention to wilfully disobey  
2 its terms. These admissions include Armstrong's statements that  
3 he broadly discussed with the Aznarans matters relating to their  
4 case against the Church, that he assisted in the relay of  
5 communications between the Aznarans and Mr. Greene and that he  
6 was assisting three other persons, Tillie Good, Denise Cantin and  
7 Ed Roberts, each of whom is making claims, through Mr. Greene's  
8 office, against Churches of Scientology protected by the May 28  
9 Order. A true and correct copy of the relevant pages of the  
10 transcript of this deposition, pp. 448-458, accurately reflecting  
11 the statements of Armstrong, Mr. Greene and myself, is attached  
12 as part of Exhibit D to the Motion. True and correct copies of  
13 Mr. Greene's demand letters against various Churches of  
14 Scientology on behalf of Ms. Good, Ms. Cantin and Mr. Roberts  
15 received by me and/or my firm are attached as Exhibits M, N and O  
16 respectively to the Motion.

17 13. On December 26, 1992, I received by U.S. mail a letter  
18 signed by Gerald Armstrong, dated December 22, 1992, and  
19 addressed to "David Miscavige and all other individuals who  
20 participate in the control of Scientology, C/O Laurie J.  
21 Bartilson, Esquire" ("December 22 Letter"). A true and correct  
22 copy of the December 22 Letter is attached to the moving papers  
23 as Exhibit G.

24 14. In what can only be described as deliberate harassment,  
25 Armstrong also sent copies of the letter to 35 individuals and  
26 groups, including anti-Church litigants, such as Vicki and  
27 Richard Aznaran, Larry Wollersheim and Joseph Yanny, and lawyers  
28 who represent clients in actions brought against one of more



1 churches, including Toby Plevin, John Elstead, and Dan Leipold.

2 15. Armstrong spends the bulk of the December 22 Letter  
3 vilifying the Church and its members, and threatening further  
4 breaches of the settlement agreement, and violations of the  
5 preliminary injunction, if his demands are not met. Although  
6 Armstrong has publicly disavowed any interest in money, he  
7 insists that the Church pay him \$500,000 for his "legal fees and  
8 costs," "cancel" the settlement agreement, and pay unspecified  
9 amounts of money to other anti-Church litigants if the Church  
10 wishes to avoid Armstrong's threatened violations.

11 16. Specifically, Armstrong threatens that, if his demands  
12 are not met, that he will travel voluntarily to South Africa to  
13 testify against a church of Scientology, give interviews to the  
14 media, and voluntarily assist anyone and everyone opposing  
15 Churches that he can locate. [Id. pp. 3, 4, 6, 7, 8] Expressing  
16 the viewpoint that the May 28 Order places no restrictions  
17 whatsoever on his conduct, Armstrong states,

18 I consider myself free to do anything anyone can,  
19 except testify absent a subpoena. Much of what I am  
permitted to do I am going to do. . . .

20 I will continue to associate with and befriend all  
21 those people I consider you attack unjustly and  
22 senselessly. I will make my knowledge and support  
23 available to the Cult Awareness Network, a group of  
24 people of good will you vilify, in all the litigation  
you have fomented against them. . . . I will even make  
my knowledge and support available to entities like  
Time and people like Rich Behar in their defenses from  
your attacks.

25 [Exhibit G, p. 3].

26 17. The Cult Awareness Network is an anti-religious group  
27 that advocates the kidnapping and forcible "deprogramming" of  
28 individuals belonging to religions which they have identified as

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1 "cults." While the Church is not presently suing the Cult  
2 Awareness Network in any litigation, the president of the Cult  
3 Awareness Network, Cynthia Kisser, has initiated an action  
4 against the Church and its president, Heber Jentzsch.

5 18. Richard Behar is the author of a Time cover story  
6 concerning the Church which ran in May, 1991. The Church is  
7 presently engaged in a lawsuit against Time and Behar for  
8 defamation.

9 19. In the December 22 Letter, Armstrong also makes plain  
10 the personal contempt which he has for a Court which would rule  
11 against him:

12 There is also, as mentioned above, the fact that  
13 in order to defend myself from your attacks and to fund  
14 the defense of the litigation you have fomented I must  
15 speak and must publish. I'm sure you understand that I  
16 remain completely confident that no court, other than  
17 the odd one your mercenaries are able to compromise  
18 with bucks, babes or bull, will order me not to defend  
19 myself.

20 [Id. p. 5].

21 20. These recent pronouncements by Armstrong make plain  
22 that nothing short of a criminal contempt order is likely to end  
23 Armstrong's misconduct.

24 21. On December 30, 1992, I received a videotape identified  
25 by the initial speaker as a November 6, 1992 interview of  
26 Armstrong. Jerry Whitfield and others participated in such  
27 interview which, on information and belief, took place at the Los  
28 Angeles convention in early November, 1992 of the so-called "Cult  
Awareness Network" ("CAN"). A true and accurate copy of the  
video tape is attached and lodged as Exhibit Q to the Motion. A  
true and accurate transcript of the conversation between

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1 Armstrong, Mr. Whitfield and others as reflected on said  
2 videotape is attached as Exhibit P to the Motion. During this  
3 recorded interview, Armstrong makes the following statement:

4 . . . I cannot, except pursuant to a subpoena, assist  
5 someone intending to file a claim or pressing a claim  
6 against the organization. Now then we are appealing  
7 even that narrow ruling, because that's unenforceable  
8 because if you construe that my ... that this video  
9 could possibly indirectly help someone in the future, I  
10 can't do this. And not only that but if you consider  
11 that my existence indirectly or directly helps someone,  
12 then I'll oblige to take my own life. In other words,  
13 I must stop breathing. It's unenforceable. I feel I  
14 am completely at liberty to associate with whomever I  
15 want, to talk to whomever I want, and I act and live  
16 that way. And that is in part why I am here at this  
17 event now, why I came to the CAN conference.

18 Exhibit P, p. 34.

19 On behalf of my client the Church, I allege that the  
20 statements made by Armstrong as relayed in this paragraph are  
21 further acknowledgements by Armstrong of his awareness of the May  
22 28 Order, his ability to act in compliance of such order and his  
23 intention to wilfully disobey its terms.

24 22. Mr. Whitfield is a defendant in the matter of Casillas  
25 v. Jerry Whitfield, et al., Los Angeles County Municipal Court  
26 No. 91K49349. My office represents Mr. Casillas in that action.  
27 Mr. Casillas is a staff member of the Church and is suing Mr.  
28 Whitfield and others for false imprisonment and false arrest.

I declare under penalty of perjury under the laws of the  
State of California that the foregoing is true and correct.

Executed this 31st day of December, 1992 at Los Angeles,  
California.

H:\ARMSTRON\BART.DEC

  
Laurie J. Bartilson

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3 235 Montgomery Street  
4 Suite 450  
5 San Francisco, California 94104  
6 (415) 391-3900

7 Laurie J. Bartilson  
8 BOWLES & MOXON  
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10 Hollywood, CA 90028  
11 (213) 953-3360

12 Attorneys for Plaintiff  
13 CHURCH OF SCIENTOLOGY  
14 INTERNATIONAL

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JUL 26 1993

LOS ANGELES  
SUPERIOR COURT

RECEIVED

JUL 29 1993

RUB LAW OFFICES

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA

16 FOR THE COUNTY OF LOS ANGELES

17 CHURCH OF SCIENTOLOGY  
18 INTERNATIONAL, a California not-  
19 for-profit religious corporation,

20 Plaintiff,

21 vs.

22 GERALD ARMSTRONG; THE GERALD  
23 ARMSTRONG CORPORATION, a  
24 California for-profit corporation;  
25 DOES 2 through 25, inclusive,

26 Defendants.

27 AND RELATED CROSS-COMPLAINT

) CASE NO. BC 052395

) ORDER TO SHOW CAUSE RE  
) CONTEMPT

) DATE: July 26, 1993  
) TIME: 8:30 a.m.  
) DEPT: 86

) DISCOVERY CUT-OFF: None  
) MOTION CUT-OFF: None  
) TRIAL DATE: Vacated

28 TO: GERALD ARMSTRONG:

29 GOOD CAUSE APPEARING, YOU ARE ORDERED to appear in  
30 Department No. 96 of this Court, located at 111 North Hill  
31 Street, Los Angeles, California 90012, on September 16, 1993 at

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1 9:30 A.M.(time) to show cause why you should not be adjudged to be  
2 in contempt of this Court for alleged violation of the Court's  
3 order of May 28, 1992.

4 If you are held to be in contempt of this Court, then as the  
5 Court sees fit you will be subject to a fine not to exceed  
6 \$1,000.00 and jail time not to exceed five days.

7

8

Date: JUL 26 1993

DIANE WAYNE

Superior Court Judge

9

10

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27

28

H:\ARMSTRON\ORDER.OS2

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12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 FOR THE COUNTY OF LOS ANGELES

14 CHURCH OF SCIENTOLOGY  
15 INTERNATIONAL, a California not-  
16 for-profit religious corporation,

17 Plaintiff,

18 vs.

19 GERALD ARMSTRONG; THE GERALD  
20 ARMSTRONG CORPORATION, a  
21 California for-profit corporation;  
22 DOES 2 through 25, inclusive,

23 Defendants.

24 AND RELATED CROSS-COMPLAINT

) CASE NO. BC 052395  
)  
) EX PARTE APPLICATION FOR  
) ORDER TO SHOW CAUSE WHY  
) GERALD ARMSTRONG SHOULD NOT  
) BE HELD IN CONTEMPT OF  
) COURT; MEMORANDUM OF POINTS  
) AND AUTHORITIES  
)  
)  
)  
) DATE: July 26, 1993  
) TIME: 8:30 a.m.  
) DEPT: 86  
)  
) DISCOVERY CUT-OFF: None  
) MOTION CUT-OFF: None  
) TRIAL DATE: Vacated

25 Plaintiff Church of Scientology International hereby applies  
26 for an order from this Court directing defendant Gerald Armstrong  
27 to show cause why he should not be held in contempt of this Court  
28 and sanctioned for such contempt.

Armstrong is subject to this Court's May 28, 1992  
preliminary injunction order prohibiting him from voluntarily  
assisting any person litigating a claim against any of several

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1 Churches of Scientology, including plaintiff CSI and the Church  
2 of Scientology of California. A primary basis for the issuance  
3 of that injunction was Armstrong's giving declarations to parties  
4 adverse to the Church of Scientology in various litigation.  
5 While Armstrong has appealed from that order, this does not give  
6 him license to violate it in the interim. Nevertheless, he has  
7 not only stated under oath that he would never obey the order, he  
8 has now voluntarily executed on June 4, 1993 a declaration in  
9 support of defendant Larry Wollersheim in the matter of Church of  
10 Scientology of California v. Wollersheim, Los Angeles Superior  
11 Court No. BC 074815. Armstrong's act violates the unambiguous  
12 terms of the May 28 order and should be criminally sanctioned by  
13 fine and/or imprisonment under Code of Civil Procedure § 1218.

14 On December 31, 1992, plaintiff filed an application for  
15 OSC, following documentation of at least six prior instances of  
16 contempt by Armstrong. This Court, on March 5, 1993, held  
17 enforcement of the May 28 order in abeyance for two months  
18 because the Court of Appeal might soon rule on the defendant's  
19 appeal of the May 28 order and this ruling might dispose of some  
20 issues facing this Court. Now some three months later, two  
21 intervening rulings and Armstrong's June declaration in violation  
22 of the May 28 order have made this new application necessary and  
23 proper.

24 On May 26, 1993, on CSI's motion for clarification, the Hon.  
25 David Horowitz, trial judge in this matter, ruled that while he  
26 had stayed the underlying action pending the outcome of the  
27 appeal, he had not stayed the enforcement of the injunction.  
28 Then, on June 29, 1993, the Court of Appeal denied CSI's



1 unopposed motion for expedited hearing schedule.

2 While the parties now face at least a month-long delay on  
3 resolution of the appeal, Armstrong's declaration in Wollersheim  
4 indicates that he will continue to violate the clear prohibitions  
5 of the May 28 order when and where he pleases. That order is not  
6 stayed and, under the current circumstances, must be enforced by  
7 this Court until such time, if any, that the higher court decides  
8 otherwise.

9 This application is based upon the attached memorandum of  
10 points and authorities; declaration of Laurie Bartilson and other  
11 supporting exhibits; the pleadings and records on file in this  
12 case, including plaintiff's December 31, 1992 ex parte  
13 application for order to show cause why Gerald Armstrong should  
14 not be held in contempt; and such further evidence and argument  
15 as may be allowed at any hearing on this application.

16 Defendant Armstrong has been notified of this application  
17 pursuant to California Rules of Court, Rule 379 and Law and  
18 Discovery Policy Manual ¶ 261, et seq. Bartilson Declaration,  
19 ¶ 7. A proposed form of order is being submitted with this  
20 application.

21 Dated: July 25, 1993

Respectfully submitted,

22 BOWLES & MOXON

23  
24 By:

Laurie J. Bartilson

25 Andrew H. Wilson  
26 WILSON, RYAN & CAMPILONGO

27 Attorneys for Plaintiff  
28 CHURCH OF SCIENTOLOGY  
INTERNATIONAL



1  
2  
3 MEMORANDUM OF POINTS AND AUTHORITIES

4 I. INTRODUCTION

5 CSI brings this second application to end Armstrong's  
6 repeated and deliberate violations of the May 28, 1992  
7 preliminary injunction order. That order prohibits Armstrong  
8 from voluntarily assisting persons who are litigating against  
9 plaintiff and affiliated Churches of Scientology, including the  
10 Church of Scientology of California. Armstrong's recent  
11 submission of a sworn declaration to this Court in the Church of  
12 Scientology of California v. Wollersheim case, as enumerated in  
13 the supporting Bartilson declaration, clearly violates that  
14 prohibition.

15 In March, 1993, this Court expressed some reluctance to  
16 enforce the May 28 order when the Court of Appeal was expected to  
17 rule shortly on Armstrong's appeal. The only issue which the  
18 Court of Appeal might decide which could possibly affect a  
19 contempt hearing is whether the injunction is vague or overbroad.  
20 This is the only possible defense to Armstrong's violation of the  
21 injunction. While the Court of Appeal might dismiss other  
22 "defenses" cited by Armstrong, these are not defenses to a  
23 contempt charge. As Judge Horowitz recently found, this  
24 prohibitory injunction has not been stayed pending Armstrong's  
25 appeal. The Court of Appeals has underscored this Court's  
26 jurisdiction and duty to punish clear violations of that order  
27 during the pendency of the appeal by declining CSI's unopposed  
28 motion to expedite the hearing in that appeal. After all, CSI  
posted an appeal bond to protect Armstrong in the event that the  
order was improvidently issued by this Court. No quick ruling



1 can be expected from the higher court. There is no basis for  
2 further delay in this Court enforcing the May 28 order.

3 Armstrong has sworn under oath that he has no intention of  
4 complying with the May 28 order. His June 4, 1993 declaration in  
5 Wollersheim is the latest and perhaps most unequivocal  
6 case-in-point. Without an unequivocal and prompt assertion of  
7 this Court's authority in enforcing that order, it is virtually  
8 certain that Armstrong will continue to flaunt that authority  
9 throughout the appeal process, and beyond.

## 10 II. FACTUAL STATEMENT

### 11 A. Armstrong's Sworn Intention to Disregard the May 28 Order

12 In its December 31, 1992 ex parte application for order to  
13 show cause, plaintiff detailed to this Court at least six earlier  
14 instances of Armstrong's violations of the May 28 order. That  
15 order states, in part:

16 Defendant Gerald Armstrong ... and persons  
17 acting in concert ... with him ... are  
18 restrained and enjoined during the pendency  
19 of this suit pending further order of this  
20 court from ... [v]oluntarily assisting any  
person ... litigating a claim against the  
persons referred to in sec. 1 of the "Mutual  
Release of All Claims and Settlement  
Agreement" of December 1986.

21 Exhibit A, May 28 order, p. 2, ¶ 6 (emphasis supplied).<sup>1</sup> Less  
22 than a month after the May 28 order was issued, Armstrong  
23 asserted under oath in deposition that he would not honor its  
24 terms.

25  
26 <sup>1</sup> The persons and entities protected by the prohibition  
27 against voluntary assistance include plaintiff CSI and the Church  
28 of Scientology of California. Exhibit B, Mutual Release of All  
Claims and Settlement Agreement, p. 1, ¶ 1.

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1 I have absolutely no intention of honoring  
2 that settlement agreement. I cannot. I  
3 cannot logically. I cannot ethically. I  
4 cannot morally. I cannot psychically. I  
5 cannot philosophically. I cannot  
6 spiritually. I cannot in any way. And it is  
7 firmly my intention not to honor it.

8 Q. No matter what the court says?

9 A. No court can order it. They're going to  
10 have to kill me.

11 Exhibit C, June 24, 1992 deposition of Gerald Armstrong, p. 124;  
12 Bartilson Declaration, ¶ 4.<sup>2</sup>

13 B. There is No Prospect of a Prompt  
14 Ruling from the Court of Appeal

15 On December 31, 1992, plaintiff CSI applied for and obtained  
16 an order to show cause re contempt, requiring Armstrong to appear  
17 and answer allegations that he had violated the May 28 order at  
18 least six times.

19 On March 5, 1993, this Court declined to rule on the  
20 contempt issue because of Armstrong's pending appeal on the May  
21 28 order. Looking to a prompt resolution on the appeal, the  
22 matter was continued to June 1, with the Court commenting:

23 If [the May 28 order] is a valid order, each  
24 time he disobeys it, he faces five days in  
25 jail. I take contempt very seriously. And,  
26 I mean, I don't treat it lightly and he just  
27 does it at his peril.

28 Exhibit E, transcript of March 5, 1993 hearing, p. 5.

On March 23, 1993, Judge Horowitz of this Court vacated the  
trial date in the case and stayed the proceedings pending the  
outcome of Armstrong's appeal. Exhibit F, March 23, 1993 minute

---

<sup>2</sup> Armstrong also stated his intent to ignore the May 28  
order in a December 22, 1992 letter to plaintiff's counsel.  
Exhibit D. See December 31, 1992 application, pp. 4 - 5.



1 order. On May 26, 1993, on CSI's motion, he clarified his stay  
2 of the proceedings had not stayed the effect of the May 28 order.  
3 Exhibit G, May 26, 1993 minute order; Exhibit H, transcript of  
4 May 26, 1993 hearing.

5 On May 11, 1993, CSI filed with the Second Appellate  
6 District for the Court of Appeal a motion for expedited hearing  
7 schedule, demonstrating that Armstrong was using the filing and  
8 the pendency of the appeal as an excuse to ignore the  
9 prohibitions of the preliminary injunction issued by this Court.  
10 Armstrong filed a brief on May 26 indicating his non-opposition  
11 and urging a prompt resolution of the appeal issues.

12 On June 29, 1993, the Court of Appeal issued an order which  
13 denied the motion for expedited hearing. Exhibit I, June 29,  
14 1993 order.

15 C. Armstrong's June 4, 1993  
16 Declaration Violates the May 28 Order

17 While there is now no prospect for a prompt hearing and  
18 resolution of Armstrong's appeal, he has continued to violate the  
19 May 28 order. On June 4, 1993, Armstrong executed a five-page  
20 declaration containing his now familiar inflammatory, distorted  
21 and false claims regarding his purported experiences while a  
22 member of the Church of Scientology. Exhibit J, June 4, 1993  
23 Declaration of Gerald Armstrong. That declaration was filed with  
24 this Court on or about June 17, 1993 as support for long-time  
25 Church detractor Larry Wollersheim's motion to strike in Church  
26 of Scientology of California v. Wollersheim, Los Angeles County  
27 Superior Court No. 074815. Wollersheim has been a litigant  
28 actively pursuing claims against Church of Scientology of



1 California since 1980. Bartilson Dec., ¶ 5. The execution and  
2 delivery of this declaration by Armstrong to Wollersheim is a  
3 violation of the unequivocal prohibition in the May 28 order  
4 against voluntary assistance to Church adversaries in litigation.  
5 As with the six instances detailed in the December 31, 1992  
6 application, this latest defiance of the May 28 order is not  
7 accidental. It is Armstrong's deliberate and flagrant contempt  
8 of this Court's authority. Whatever arguments Armstrong may make  
9 about the injunction's breadth or uncertainty, he cannot claim  
10 that he was unsure as to whether his signing of Exhibit J  
11 violated it.

### 12 III. DISCUSSION

#### 13 A. Armstrong's Demonstrated Contempt 14 Warrants Fine and/or Imprisonment

15 This Court has the power to punish acts, as here, which  
16 impede and obstruct the discharge of the Court's duties. Code of  
17 Civil Procedure § 1209, et seq., Morelli v. Superior Court (1969)  
18 1 Cal.3d 328, 333, 82 Cal.Rptr. 375 (criminal contempt  
19 proceedings arising out of a civil action are to vindicate the  
20 authority of the court).

21 [T]he following acts or omissions in respect  
22 to a court of justice, or proceedings  
23 therein, are contempts of the authority of  
24 the court: 5. Disobedience of any lawful  
25 ... order ... of the court.

26 Code of Civil Procedure § 1209(a). See also, Brown v. Brown  
27 (1971) 22 Cal.App.3d 82, 84, 99 Cal.Rptr. 311 (court has inherent  
28 power to enforce execution of its equity decrees); Vanderstok v.  
Bank of America (1972) 29 Cal.App.3d 731, 734, 105 Cal.Rptr. 699  
(contempt proceeding is a proper process for enforcement of an

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1 injunction order).

2 In order to establish such an indirect contempt committed  
3 outside of the immediate presence of the Court, the moving party  
4 must show by sworn statement facts constituting the violation of  
5 the court's order. Code of Civil Procedure § 1211. The moving  
6 party's declaration need only make a prima facie showing of the  
7 elements of contempt. Crawford v. W.C.A.B. (1989) 213 Cal.App.3d  
8 156, 169, 259 Cal.Rptr. 414, 422-423 (elements of contempt are  
9 existence of lawful court order; contemnor's knowledge or notice  
10 of the order; and contemnor's wilful disobedience of the order  
11 despite ability to comply).

12 CSI, through the accompanying declaration of Laurie  
13 Bartilson, has met the requirements for the requested order to  
14 show cause. That declaration shows: (a) issuance of the valid  
15 May 28 order (§§ 2,3); (b) notice to Armstrong of the May 28  
16 order (§ 2); (c) Armstrong's knowledge of the May 28 order (§ 2);  
17 (d) Armstrong's ability to comply with the order (§ 2); and (e)  
18 Armstrong's wilful disobedience (§ 5).

19 B. The Injunction Order is Not Stayed by the Pending Appeal

20 Prohibitory injunctions such as the May 28 order are not  
21 stayed pending appeal. Civil Code § 3368; Code of Civil  
22 Procedure § 525; Agricultural Labor Relations Board v. Kern  
23 County Superior Court (1984) 149 Cal.App.3d 709, 712, n. 2, 196  
24 Cal.Rptr. 920, 922. Judge Horowitz has accordingly ruled that  
25 the May 28 order is in effect and enforceable notwithstanding a  
26 stay on the underlying case pending the appeal. Exhibits G, H.  
27 See also, Exhibit A, May 28 Order, p. 2, § 6 (Armstrong  
28 restrained during pendency of the suit; there is no subsequent



1 order modifying this).

2 Without such a stay, the prohibitory injunction must be  
3 obeyed notwithstanding any pending appeal challenging the  
4 substantive basis of that injunction. Walker v. City of  
5 Birmingham (1967) 388 U.S. 308, 321 (persons subject to  
6 injunction order are not free to disobey or collaterally attack  
7 it because they are pursuing an appeal, as here, on  
8 constitutional grounds). The Court of Appeal has accordingly  
9 ruled that it need not expedite the hearing on the appeal out of  
10 plaintiff's concern that Armstrong will be violating the order in  
11 the interim.

12 Until any higher court ruling to the contrary, this Court's  
13 May 28 order is valid and Armstrong violates the order "at his  
14 peril." Enforcement of the injunction is properly within the  
15 power of this Court and the speed of the appeal has no bearing on  
16 the exercise of such power.

17 C. The Ruling Appealed Will Not Dispose of Any  
18 Issue Relevant to This Contempt Proceeding

19 This Court's decision to defer hearing the previous contempt  
20 application was based upon its perception that the injunction  
21 issued by Judge Sohigian might be found to be overbroad or vague.  
22 The Court recognized that this would be the only basis upon which  
23 Armstrong could legitimately refuse to obey an injunction entered  
24 against him. This recognition of the Court was in direct  
25 response to Armstrong's argument that he was being subject to  
26 contempt for acts which were not unambiguously subject to the  
27 injunction. See, Transcript of Proceedings, Exhibit E.

28 Armstrong can make no such argument here. The injunction



1 has entered because Armstrong was giving voluntary declarations  
2 to persons litigating against CSI and protected entities. Ex. K,  
3 Memorandum of Points and Authorities in Support of Motion for  
4 Preliminary Injunction at pp. 7-10. Wollersheim is unequivocally  
5 a "person...litigating a claim against" the Church of Scientology  
6 of California, a protected entity. Bartilson Dec., ¶ 3.  
7 Armstrong's June 4, 1993 declaration, provided to Wollersheim  
8 and/or his attorneys and used by them in litigation against the  
9 Church of Scientology of California, is as crystal clear a  
10 violation of the injunction as can possibly be imagined.

11 IV. CONCLUSION

12 Gerald Armstrong should be ordered to show cause why he  
13 should not be held in criminal contempt of this Court for his  
14 June 4, 1993 declaration, with punishment in the form of a fine  
15 not to exceed \$1,000.00 and/or jail time not to exceed five days  
16 as this Court sees fit. Code of Civil Procedure § 1218. Without  
17 such action, Armstrong has already demonstrated that he will  
18 continue to violate with impunity the terms of the May 28 order.

19 Dated: July 25, 1993

Respectfully submitted,

20 BOWLES & MOXON

21  
22 By:

Laurie J. Bartilson

23 Andrew H. Wilson  
24 WILSON, RYAN & CAMPILONGO

25 Attorneys for Plaintiff  
26 CHURCH OF SCIENTOLOGY  
27 INTERNATIONAL

28 H:\ARMSTRON\EXPARTE

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9

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SUPERIOR COURT

RECEIVED

JUL 29 1993

HUE LAW OFFICES

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 FOR THE COUNTY OF LOS ANGELES

12 CHURCH OF SCIENTOLOGY )  
13 INTERNATIONAL, a California not- )  
for-profit religious corporation, )

14 )  
15 Plaintiff, )

16 vs. )

17 )  
18 GERALD ARMSTRONG; THE GERALD )  
ARMSTRONG CORPORATION, a )  
19 California for-profit corporation; )  
DOES 2 through 25, inclusive, )  
20 Defendants. )

21 AND RELATED CROSS-COMPLAINT

CASE NO. BC 052395

) DECLARATION OF LAURIE J.  
) BARTILSON IN SUPPORT OF  
) SECOND APPLICATION FOR  
) ORDER TO SHOW CAUSE WHY  
) GERALD ARMSTRONG SHOULD NOT  
) BE HELD IN CONTEMPT

) DATE: July 26, 1993

) TIME: 8:30 a.m.

) DEPT: 86

) DISCOVERY CUT-OFF: None

) MOTION CUT-OFF: None

) TRIAL DATE: Vacated

22 I, LAURIE J. BARTILSON, hereby declare:

23 1. I am a partner in the law firm of Bowles & Moxon and am  
24 an attorney admitted to practice in the State of California. My  
25 firm represents plaintiff Church of Scientology International  
26 ("Church") in the instant case. I am submitting this declaration  
27 in support of the Church's Second Ex Parte Application for Order  
28

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1 to Show Cause Why Gerald Armstrong Should Not Be Held in Contempt  
2 ("Application"). I have personal knowledge of the matters  
3 specified in this declaration and, if called upon to testify on  
4 such matters, would and could do so competently.

5 2. In the Church's December 31, 1992 ex parte application  
6 for order to show cause in this case and in my supporting  
7 declaration to that application and accompanying exhibits, the  
8 Church documented at least six earlier instances of Armstrong's  
9 wilful violations of the May 28, 1992 preliminary injunction  
10 order of this Court ("May 28 order"). As required, my December  
11 31, 1992 declaration ("First Dec.") contained allegations of: (a)  
12 the issuance of the May 28 order (First Dec., ¶ 2); (b) notice to  
13 Armstrong of the May 28 order through notice to his attorneys on  
14 June 5, 1992 in the manner authorized by the Court (First Dec., ¶  
15 3); (c) Armstrong's knowledge of the May 28 order through his  
16 statements that he was aware of but would never comply with such  
17 order (First Dec., ¶¶ 4, 5, 9, 10 and 13); and (d) Armstrong's  
18 ability to have complied with such order (through his actions of  
19 assistance to anti-Church litigants, including his latest  
20 instance specified in paragraph 5 below, Armstrong was just as  
21 able to desist from such actions (First Dec., ¶¶ 4, 5, 9, 11, 12  
22 and 13)). My December 31, 1992 declaration is attached as  
23 Exhibit 1 hereto and its statements and allegations are  
24 incorporated by reference into this declaration.

25 3. The May 28 order states, in part:

26 Defendant Gerald Armstrong ... and persons acting in  
27 concert ... with him ... are restrained and enjoined  
28 during the pendency of this suit pending further order  
of this court from ... [v]oluntarily assisting any  
person ... litigating a claim against the persons



1 referred to in sec. 1 of the "Mutual Release of All  
2 Claims and Settlement Agreement" of December 1986.

3 Exhibit A to Application, May 28 order, p. 2, ¶ 6. The persons  
4 and entities protected by the prohibition against voluntary  
5 assistance include plaintiff Church and the Church of Scientology  
6 of California. Exhibit B to Application, Mutual Release of All  
7 Claims and Settlement Agreement, p. 1, ¶ 1.

8 4. Less than a month after the May 28 order was issued,  
9 Armstrong asserted under oath in deposition that he would not  
10 honor its terms.

11 I have absolutely no intention of honoring that  
12 settlement agreement. I cannot. I cannot logically.  
13 I cannot ethically. I cannot morally. I cannot  
14 psychically. I cannot philosophically. I cannot  
15 spiritually. I cannot in any way. And it is firmly my  
16 intention not to honor it.

17 Q. No matter what the court says?

18 A. No court can order it. They're going to have to  
19 kill me.

20 Exhibit C to Application, June 24, 1992 deposition of Gerald  
21 Armstrong, p. 124. Armstrong also stated his intent to ignore  
22 the May 28 order in a December 22, 1992 letter to plaintiff's  
23 counsel. Exhibit D to Application.

24 5. Larry Wollersheim is a former Church member who has been  
25 actively pursuing claims against the Church of Scientology of  
26 California in litigation since 1980. On or about June 17, 1993,  
27 I received a set of exhibits in support of Larry Wollersheim's  
28 motion to strike in Church of Scientology of California v.  
Wollersheim, Los Angeles County Superior Court No. 074815. I  
represent the Church of Scientology of California in that case.  
Designated as exhibit 6 in that set was a copy of a five-page

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1 declaration of Gerald Armstrong, showing on the last page that  
2 Armstrong had executed the document under oath on June 4, 1993.  
3 That declaration contained an Armstrong diatribe against the  
4 Churches of Scientology. Exhibit J to Application.

5 6. I allege that execution and delivery of the June 4, 1993  
6 declaration by Armstrong to Wollersheim and/or Wollersheim's  
7 counsel is a violation of the prohibition in the May 28 order  
8 against voluntary assistance to Church adversaries in litigation  
9 and is in deliberate contempt of this Court's authority.

10 7. On July 23, 1993, I gave notice of this application to  
11 Armstrong's counsel, Ford Greene and Paul Morantz, by telefax  
12 communication. A true and correct copy of my letter giving  
13 notice is attached hereto as Exhibit 2, together with telefax  
14 transmission confirmation sheets. I received a response to my  
15 letter from defendant Armstrong, Exhibit 3, and responded to that  
16 communication on July 23, 1993, Exhibit 4.

17 Neither Armstrong nor his counsel indicated whether or not  
18 they intended to oppose this application.

19 I declare under penalty of perjury under the laws of the  
20 State of California that the foregoing is true and correct.

21 Executed on this \_\_\_ th day of July, 1993 at Los Angeles,  
22 California.

23 \_\_\_\_\_  
24 Laurie J. Bartilson



PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of eighteen years and am not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following

documents:        APPELLANT'S MOTION TO AUGMENT THE RECORD OR,  
                     IN THE ALTERNATIVE, REQUEST FOR JUDICIAL NOTICE

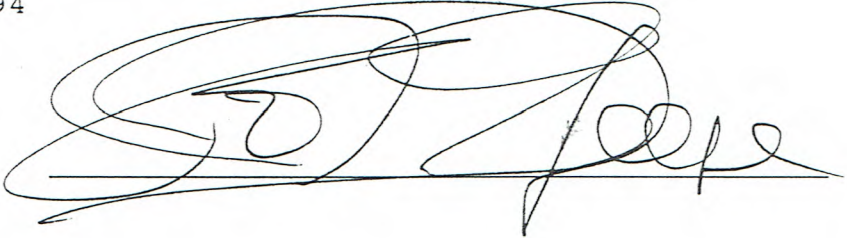
on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California:

SEE SERVICE LIST

[X]    (By Mail)        I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California.

[X]    (State)        I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

DATED:        March 14, 1994

A handwritten signature in black ink, appearing to be "J. J. [unclear]", written over a horizontal line.



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